

**CITY OF TRUTH OR CONSEQUENCES  
PLANNING & ZONING COMMISSION  
MONDAY, AUGUST 2, 2021**

**AGENDA**

**REGULAR MEETING**

Regular meeting of the Planning & Zoning Commission of the City of Truth or Consequences, New Mexico to be held on Monday, August 2, 2021 at 5:30 p.m. in the City Commission Chambers, 405 W. 3rd St, Truth or Consequences, NM 87901.

**CALL TO ORDER**

**ROLL CALL:**

Michael Hogg, Chairman  
Chris Sisney, Vice-Chairman  
James Bush, Member

**1. APPROVAL OF AGENDA**

**2. APPROVAL OF MINUTES:**

- a. Regular Meeting of July 12, 2021.

**3. COMMENTS FROM THE PUBLIC (3 minute rule applies)**

**4. PUBLIC HEARING:**

- a. Public Hearing/Discussion/Action: Special Use/Conditional Use permit for home occupation Level III. Traci Alvarez, Community Development Director.

**5. REPORTS FROM THE BOARD**

**6. REPORTS FROM STAFF**

**7. ADJOURNMENT**

**CITY OF TRUTH OR CONSEQUENCES  
PLANNING & ZONING COMMISSION  
MONDAY, JULY 12, 2021**

**MINUTES**

**REGULAR MEETING**

Regular meeting of the Planning & Zoning Commission of the City of Truth or Consequences, New Mexico to be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico, on Monday, July 12, 2021 at 5:30pm.

**CALL TO ORDER:** The meeting was called to order by Chairman Hogg.

**ROLL CALL:**

Michael Hogg, Chairman  
Chris Sisney, Vice-Chairman  
James Bush, Member

**ALSO PRESENT:**

Bruce Swingle, City Manager  
Victor Rodriguez, Police Chief  
Traci Alvarez, Community Development Director  
Angela A. Torres, City Clerk  
Dawn C. Barclay, Deputy City Clerk

**1. APPROVAL OF AGENDA:**

Member Bush made a motion to approve the agenda. Vice-Chairman Sisney seconded. Motion carried unanimously.

**2. APPROVAL OF MINUTES:**

- a. Regular meeting of Monday, June 7, 2021.

Member Bush made motion to approve minutes. Vice-Chairman Sisney seconded the motion. Motion carried unanimously.

### **3. COMMENTS FROM THE PUBLIC:**

Mr. Garland Hopkins spoke on behalf of himself and his sister who was also present. They are owners of a 10 acre parcel that adjoins the property addressed in the today's public hearing. Mr. Hopkins understands voicing his concern for his property has no bearing on the outcome of today's public hearing. He wanted the City to know that his property, over the years, has had roads cut in and wanted the city to know it has no official public access, and is considered landlocked. He would like to know if the City has any plans of opening access to his property.

### **4. PUBLIC HEARING:**

- a. Public Hearing/Discussion/Action: Request for a Summary Plat Amendment at 2103 S. Broadway, Truth or Consequences, NM pursuant to Chapter 15, Sec. 15-17., Amendment of Plats:**

**Angela A. Torres, City Clerk** - Began the public hearing by swearing in Traci Alvarez, Community Development Director and John Herbst, owner of the property at 2103 S. Broadway.

**Traci Alvarez, Community Development Director** – Explained that the, property owner located at 2103 S. Broadway wishes to amend his plot that is currently known as “RJ RV Park”. He wishes to separate the RV park from the private residence. All document's and fees have been paid, property owner is current on his taxes, and both plots meet minimum standards required for the district. The amendment will not have any significant effect on all utilities, drainage or traffic. I normally submit a utilities verification form with my agenda packet, I do apologize, we had some different departments that have been out and they haven't been able to complete the verification form. We only had one that did come in and it was from the Electric Department. There was a concern regarding a potential easement on electric. I have also reached out to the County Office to see if there is one in place. I spoke to the property owner and he seems to feel there was one already in place. I have not received those documents back from the County. It would be my request to staff once we finish the public hearing, that our Commission approve this Summary Plat Amendment pursuant to receiving all the verifications and making sure all those documentation work for all utilities.

#### **Proponent:**

**John Herbst, Owner of the RJ RV Park** - The plat is originally 6.5 acres. I've been in real estate for 45 years. I think the residential should be separated out from the commercial. I think there's been a mix up and it needs to be changed. I separated the house on a separate plat, and it is surveyed out on 1.8 acres of ground and I have a separate easement from Hillcrest Ave into the park then to the house. The house has been there for 20 years, and has been served by electricity so there has to be an easement somewhere.

**Traci Alvarez, Community Development Director** – There may or may not be. We are still waiting to hear back from the County. If there is not an amical registered easement, it's just a matter of adding that in on your Summary Plat.

---

**Angela A. Torres, City Clerk** – Asked if the board had any questions?

**Angela A. Torres, City Clerk** – Do we have any other Proponents that would like to speak?

**Angela A. Torres, City Clerk** – Do we have any Opponents that would like to speak?

**Vice-Chairman Sisney** – To drive to the house, you have to cut through the property.

**Traci Alvarez, Community Development Director** – That easement is noted on the plat.

**Angela A. Torres, City Clerk** – Closed the public hearing.

**Member Bush made a motion to approve the request for a Summary Plat Amendment at 2103 S. Broadway, pursuant to all the other necessary documentation be provided before approving. Chairman Hogg seconded the motion.**

<b>Michael Hogg, Chairman</b>	<b>Voted Aye</b>
<b>Chris Sisney, Vice-Chairman</b>	<b>Voted Nay</b>
<b>James Bush, Member</b>	<b>Voted Aye</b>

**Motion carried with a 2 to 1 in vote.**

## **5. REPORTS FROM THE BOARD:**

There were no reports from the board.

## **6. REPORTS FROM STAFF:**

**Dawn Barclay, Deputy City Clerk** - Advised the board that Mr. Zeschke who is a member of this board, will be out of town until October and he will be missing 4 consecutive meetings. Due to the long term absence, he has resigned. He may consider re-applying once he returns to T or C on a more permanent basis. His resignation letter was received on July 12, 2021.

**Angela A. Torres, City Clerk** - Updated the board that she is continuing to advertise for the Planning & Zoning Commission vacant position(s).

**Traci Alvarez, Community Development Director** – Re-addressed Mr. Hopkins who spoke during Public Comment. Ms. Alvarez gave him her contact information at the Planning & Zoning

Department and advised him to call her so she can take a look at the property to see how it can be addressed.

---

**7. ADJOURNMENT:**

There being no further business to come before the Planning & Zoning Commission.

**Member Bush moved to adjourn meeting. Chairman Hogg seconded the motion.  
Motion carried unanimously.**

**PASSED AND APPROVED ON THIS 2<sup>ND</sup> DAY OF AUGUST 2021.**

---

Michael Hogg, Chairman  
Planning & Zoning Commission

---

# PLANNING & ZONING COMMISSION

Monday, August 2, 2021

## 4. PUBLIC HEARING:

a. Public Hearing/Discussion/Action: Special Use/Conditional Use permit for home occupation Level III. Traci Alvarez, Community Development Director.

### Attachments:

- Commission Action Form
- Public Hearing Notice
- Sec. 11-5-4. - Home Occupation Permit
- Aerial View



**CITY OF TRUTH OR CONSEQUENCES  
PLANNING AND ZONING COMMISSION ACTION FORM  
DATE: 8-2-2021**

**ITEM: Discussion/Action – Home Occupation Level III – 1407 Mercury Street – Small Auto Repair Shop**

**BACKGROUND:**

**Shop to be located in existing metal enclosed shop. No work is being done on the roadway.**

**SUPPORT INFORMATION:**

**Public Hearing Notice  
Municipal Code – Home Occupation Permit  
Site Plan**

Name of Drafter: Traci Alvarez	:	Meeting date: 08-02-2021
E-mail: <a href="mailto:tburnette@torcnm.org">tburnette@torcnm.org</a>	Phone: 575-894-6673	

**Sandra K. Whitehead**  
**Mayor**



**Paul Baca**  
**Commissioner**

**Amanda Forrister**  
**Mayor Pro-Tem**

**Randall Aragon**  
**Commissioner**

**Frances Luna**  
**Commissioner**

**Bruce Swingle**  
**City Manager**

**505 Sims St.**  
**Truth or Consequences, New Mexico 87901**  
**P: 575-894-6673 ♦ F: 575-894-7767**  
**[www.torcnm.org](http://www.torcnm.org)**

## **NOTICE OF PUBLIC HEARING**

NOTICE is hereby given that the City of Truth or Consequences Planning & Zoning Commission will hold a Public Hearing during their Regular Meeting scheduled on Monday, August 2, 2021 in the Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico to receive input regarding the following:

Public Hearing/Discussion/Action: Home Occupation Level III Permit located at 1407 Mercury Street, Truth or Consequences, NM pursuant to Chapter 16 - Article V. - Sec. 11-5-4. - Home Occupation Permit for the purpose of a small auto repair shop.

Please note that the regular scheduled meeting will start at 5:30 p.m. The time of the Public Hearing will vary depending on how many items are listed on the agenda.

Should you have any questions regarding this Public Hearing, please contact our Community Development Director Traci Alvarez at (575) 952-0565, or by email to [tburnette@torcnm.org](mailto:tburnette@torcnm.org).

The agenda may be obtained on Friday, July 30, 2021 on the city website calendar at [www.torcnm.org](http://www.torcnm.org); by contacting the City Clerk's Office at 575-894-6675; or by email to: [aaatorres@torcnm.org](mailto:aaatorres@torcnm.org).

/s/ Angela A. Torres, CMC, City Clerk

Publish on the following date:

- Sentinel– Friday, July 9, 2021



Sec. 11-5-4. - Home Occupation Permit.

A home occupation permit enables a homeowner to pursue specified business or commercial activities that are considered compatible with residential areas within property Districted for residential use. Home occupations shall be categorized into three classifications: Level I, Level II, and Level III.

- A. *The following conditions apply to all classifications of home occupation:*
1. In all cases, the home occupation shall be clearly incidental and subordinate to the primary residential use of the property.
  2. Proprietors shall be in complete compliance with this Code and all other current local, state and federal regulations. Failure to comply may result in revocation of the Home Occupation Permit.
  3. The proprietor of the business shall be the property owner or a lawful resident of the property where the business is to be located.
  4. Any business activity or equipment use shall not adversely affect adjoining properties, impair established property values, or endanger public safety.
  5. Only one home occupancy permit will be issued per residence. Multiple businesses or commercial activities will be combined into one permit.
  6. Only one vehicle associated with the Home Occupation shall be allowed on the property where the Home Occupation occurs.
  7. Any combination of shipments and deliveries will not exceed four (4) times per calendar month. This does not include parcel deliveries by the U.S. Mail, UPS, Federal Express, or other similar services.
  8. Commercial vehicles will be of Class VI (AAMA Standard) and below. They will be no greater than single axle, not exceeding either 26,500 lbs., GCVW or twenty-four (24) feet in total length. Vehicles may either be straight trucks or stake-bed trucks. Businesses that require regular deliveries by larger vehicles will not be permitted.
  9. Shipping and receiving is permitted between the hours of 10:00 a.m. and 2:30 p.m. only.
- B. *For Home Occupation Levels I and II Home Occupations, the following additional criteria must be met:*
1. Outside storage of business-related materials, inventory, supplies, or equipment is not permitted. Flammable products are prohibited.
  2. Business-related signs shall be non-lighted and limited to not more than one square foot in size. Signs are governed by Section 11-13-3.
  3. Deliveries and shipments via vehicles greater than 10,000 lbs. and having more than six (6) wheels are prohibited.
  4. Approval shall be done administratively by the designated Zoning Administrator of the City, provided the required criteria of the Code are met with respect to the permit.
- C. *For Level I Home Occupations, which are allowed in all residential classifications, the following additional criteria must be met:*
1. Only two persons, residing at the premises where the business is located, may be employed at the business.
  2. All business-related operation and storage shall be confined to within no greater than five hundred (500) square feet or twenty-five percent (25%) of the floor area of the primary dwelling unit, whichever is less. Accessory structures shall not be used for business-related purposes.

3. Business-related client visitations on the premises shall be limited to no more than one client visitation at any one time. Hours of visitation shall be between the hours of 6:00 a.m. to 8:00 p.m.
4. The following businesses shall be permitted as Level I Home Occupations:
  - a. Accountant;
  - b. Answering service;
  - c. Appraiser;
  - d. Architect;
  - e. Attorney;
  - f. Computer services, such as programming, data entry, software development;
  - g. Consultant, planner;
  - h. Direct sales and mail order;
  - i. Dressmaking and tailoring;
  - j. Engineer, surveyor;
  - k. Musical instrument repair;
  - l. Real estate agent;
  - m. Arts, crafts, and leather work;
  - n. Similar uses to the above-mentioned uses, as interpreted by the designated Zoning Administrator.

D. *For Level II Home Occupations, the following additional criteria must be met:*

1. One employee not permanently residing at the business location may be employed in addition to those residents of the property where the business is located.
2. Business may be performed either in the primary dwelling or in an accessory structure.
  - a. All business-related operation and storage shall be confined to within no greater than five hundred (500) square feet or twenty-five (25) percent of the floor area of the primary dwelling unit, whichever is less, or
  - b. All business-related operation and storage within one (1) accessory structure shall be confined to within no greater than five hundred (500) square feet within the structure.
  - c. Hours of operation shall be limited to between 8:00 a.m. and 7:00 p.m.
3. No more than one client visitation at any time will be permitted during the course of business operation.
4. Business-related signs shall be non-lighted and limited to not more than four (4) square foot in size. Signs are governed by Section 11-13-3.
5. The following businesses shall be permitted as Level II Home Occupations:
  - a. Counselor;
  - b. Music teacher;
  - c. Tutorial services;
  - d. Hairdresser and similar services;
  - e. Watch, clock, and jewelry repair;

- 
- f. Similar uses to the above-mentioned uses, as interpreted by the designated Zoning Administrator.
    - g. All uses permitted as Level I Home Occupations.
  - E. *For level III Home Occupations, the following requirements must be met:*
    - 1. A site plan review and approval by the Planning and Zoning Commission is required.
    - 2. The business shall employ no more than two (2) employees not living at the premises on site.
    - 3. Business operations may be performed within either the primary dwelling, one (1) accessory structure, or both.
      - a. Business-related operation and storage shall be confined to within no greater than five hundred (500) square feet of the floor area of the primary dwelling or twenty-five percent (25%) of the floor area, whichever is less.
      - b. Business-related operation and storage within one accessory structure shall be confined to no greater than five hundred (500) square feet of the floor area.
      - c. Hours of operation shall be limited to between 8:00 a.m. and 6:00 p.m., Monday through Friday.
    - 4. Outside storage of business-related materials is limited to four hundred (400) square feet and shall be screened from view by a site obscuring fence or wall that is a minimum of five (5) feet in height. Materials shall not be stacked higher than the fence. Outside storage area shall not be located in the front yard or to the side of the primary dwelling.
    - 5. One non-lighted on-site business sign shall be permitted. The sign shall be a maximum of six (6) square feet, and may be located on the ground or attached to the building, which contains the business. Signs are governed by Section 11-13-3. If located on the ground, it shall maintain minimum six (6) feet front and side setbacks. If mounted on the building, no part of the sign shall be over eight (8) feet high measured from the top of the sign to ground level. All signs shall display a street address. Lighted signs are not permitted.
    - 6. Client visitations shall not exceed five clients at any one time. The business shall provide sufficient off-street parking spaces and a designated loading area, if necessary.
    - 7. The business shall have no more than one (1) business vehicle.
    - 8. The following businesses shall be permitted as Level III Home Occupations:
      - a. Catering, subject to NMED review;
      - b. Child or adult care, with no overnight provisions and subject to local and state regulatory requirements;
      - c. Computer hardware assembly and repair;
      - d. Light welding;
      - e. Photography studio, subject to NMED review;
      - f. Small appliance repair;
      - g. Small electronics and radio repair;
      - h. Similar uses to the above-mentioned uses, as interpreted by the designated Zoning Administrator;
      - i. Those uses permitted as Level I or Level II Home Occupations.
    - 9. The applicant shall notify all property owners of his/her intent in a manner specified in Section 11-7-2 and shall be subject to a public hearing as specified therein.

- 
- F. *Business registration.* A Business Registration License is required for Home Occupation business or commercial activity. Approval of a business registration supporting a home occupation or Home Occupation Permit does not nullify any private covenants or deed restrictions that apply to the property upon which the home occupation is based. It is the responsibility of the proprietor to be fully aware of the need to comply with any such agreements.
  - G. *Fee.* A non-refundable application fee as set by City Commission Resolution must accompany each application.
  - H. *Submission requirements.* The application for a home occupation permit shall be in the format stipulated by the City and shall contain plans and other information as required by the City. The completed application for a home occupation permit shall be submitted to the City Clerk for placement upon the agenda of the Planning and Zoning Commission when applicable.
  - I. *Review.* A home occupation permit shall be subject to review on each anniversary following is approval. If it is determined from the review that the current use is significantly different or larger in scale than that originally approved, the Home Occupation permit may be revoked by the Planning and Zoning Commission.
  - J. *Transferal.* Home occupation permits shall not be transferable from location to location, building owner to building owner, or from the applicant to any other party.



ry St

Mercury St

Mercury St

Mercury St

Me

